

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL No. 1456
)

) CIVIL ACTION: 01-CV-12257-PBS
)

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

) Judge Patti B. Saris
)
)

**NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION TO COMPEL THE
PRODUCTION OF DOCUMENTS CREATED DURING THE RELEVANT TIME
PERIOD DIRECTED AT DEFENDANT SICOR**

Plaintiffs hereby advise the Court that they have withdrawn their Motion to Compel the Production of Documents Created During the Relevant Time Period From Defendants Abbott Laboratories, Astrazeneca, Schering-Plough, Sicor and Together Rx Defendants, filed on May 3, 2004, against Defendant Sicor only.

Plaintiffs filed a motion to compel documents created prior to January 1, 1997 and after September 6, 2002 against the following defendants: Abbott Laboratories, Astrazeneca, Schering-Plough, Sicor, and Together Rx Defendants. Since the filing of that motion, Defendant Sicor has agreed to produce responsive documents. *See* May 13, 2004 letter attached as Exhibit A. Therefore, the motion to compel is withdrawn as to Defendant Sicor but remains applicable against all other defendants.

NOTICE OF WITHDRAWAL OF PLAINTIFFS'
MOTION TO COMPEL

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DATED: May 19, 2004

By Steve W. Berman, signature on file
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NOTICE OF WITHDRAWAL OF PLAINTIFFS'
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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS CREATED DURING THE RELEVANT TIME PERIOD DIRECTED AT DEFENDANT SICOR** to be served on all counsel of record electronically on May 19, 2004, pursuant to Section D of Case Management Order No. 2.



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Exhibit A



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May 13, 2004

VIA E-MAIL AND FIRST CLASS MAIL

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**Re: In Re: Pharmaceutical Industry Wholesale Price Litigation,
MDL 1456, No. 01-CV-12257-PBS (D. Mass.)**

Dear Counsel:

Pursuant to our discussion this past Friday, May 7, 2004, Sicor withdraws any objection on the basis of relevance that it has to Plaintiffs' Request for the Production of Documents and Interrogatories to the extent they call for responsive documents or information generated or assembled either prior to January 1, 1997 or after September 6, 2002. As such there is no longer any basis for Plaintiffs' Motion to Compel ("Motion"). Therefore I expect you will be withdrawing your Motion as to Sicor forthwith.

Please contact me at (202) 408-9236 if you have any questions.

Sincerely,

Elizabeth I. Hack

cc: Steven W. Berman, Hagens Berman, LLP
Wes Fach, General Counsel, Sicor